

Internal Revenue Service

Department of the Treasury

North-Atlantic Region

Address: any reply to Appeals Office at:

Person to Contact:

Telephone Number:

Refer Reply to:

Date: NOV 06 1986

Gentlemen:

This letter is a Final Adverse Determination/Ruling Letter concerning your claim to be an organization described in Section 501(c)(4) of the Internal Revenue Code of 1954.

Your organization was organized [redacted] under Chapter [redacted] of the General Laws of the State of [redacted] on [redacted].

Your purposes, as stated in your Articles of Association, are "to market food, groceries and household items as a retailer, and to do other related activities, consistent with the laws of the State of [redacted]."

A review of your activities disclose that your primary activity consists of selling food, mainly to members at approximately [redacted] % above wholesale costs, which is geared to cover the operating expenses of the organization.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the Income Tax Regulations states that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the community. An organization coming within the scope of this section is one that is operated to bring about civic betterments and social improvements.

In Rev. Rul. 73-349 1973-2 CB 179, the Service held that an organization found to purchase groceries for its membership at the lowest possible price, on a cooperative basis, is not exempt as a social welfare organization as defined in Section 501(c)(4) of the Internal Revenue Code.

Since your organization's operation is similar to the organization described in Rev. Rul. 73-349 (supra) you have been determined to be operated primarily for the benefit of your individual members versus the community as a whole.

Therefore, your organization fails to qualify for tax exempt status as a social welfare organization described in Section 501(c)(4) of the Code.

Your organization is required to file Federal income tax returns on Form 1120.

Sincerely yours,

Associate Chief
Boston Appeals Office

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 1680, GPO Brooklyn, N.Y. 11202

Date:

JAN 08 1965

Person to Contact:

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CERTIFIED MAIL

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Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The evidence indicates that you were formed as a consumer cooperative association under chapter [redacted] of the General Laws of the State of [redacted] on [redacted].

The purposes for which the organization is formed are: "to market food, groceries, and household items as a retailer, and to do other related activities, consistent with the Law of the State of [redacted]"

The organization's activities consist of selling food, mainly to members for approximately [redacted] % above wholesale cost with the mark up over cost set to cover operating expenses. Food is also sold to the general public at a higher mark up to encourage membership in the cooperative. Membership in the organization is open to everyone. Members are charged yearly membership fees, must make a deposit equal to one week's average purchase, and must make a work commitment of two hours per month to the cooperative. Present membership is approximately [redacted] persons.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the Income Tax Regulations states that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the community. An organization coming within the scope of this section is one that is operated to bring about civic betterments and social improvements.

Revenue Ruling 73-349, 1973-2 C.B. 179 states that an organization formed to purchase groceries for its membership at the lowest possible prices on a cooperative basis is not exempt from tax as a social welfare organization under section 501(c)(4) of the Code. Such an organization is doomed to be a private cooperative enterprise for the economic benefit or convenience of the members. In Commissioner v. Lake Forest, Inc. 305 F. 2d 814 (4th Cir. 1962) it was held that a corporation that provided housing on a cooperative basis lacked the necessary requirements to qualify as described in section 501(c)(4) because the organization was essentially a private self help enterprise with only an incidental benefit to the community as a whole.

Similarly, in the case at hand, this organization is operated primarily for the private benefit of members and any benefits to the community are not sufficient to meet the requirement of the regulations that the organization be operated primarily for the common good and general welfare of the community. Accordingly, the applicant organization is not exempt from Federal income tax under section 501(c)(4) of the Code. Nor do you qualify under any other related paragraph of section 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1487, General Post Office, Brooklyn, NY 11201.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,

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District Director

cc:

[REDACTED]

Enclosure: Pub. 892